

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF INTEGRATED RESOURCE)
PLANNING FOR THE PROVISION OF)
STANDARD OFFER SUPPLY SERVICE BY)
DELMARVA POWER & LIGHT COMPANY UNDER)
26 DEL. C. § 1007(c) & (d): REVIEW) PSC DOCKET NO. 06-241
AND APPROVAL OF THE REQUEST FOR)
PROPOSALS FOR THE CONSTRUCTION OF)
NEW GENERATION RESOURCES UNDER 26)
DEL. C. § 1007(d))
(OPENED JULY 25, 2006)

**Response to Request for Access to Confidential Information and Motion for
Entry of a Protective Order**

1. On December 28, 2006, I requested access to all “non-public” information as that term is used in PSC rule 11(e).
2. On January 8, 2007, Robert Howatt, PSC Staff Member sent an email with the following subject heading: Access to Docket 06-241 Bid Information. Mr. Howatt asked parties’ “thoughts on this issue and what information could be released in a public environment” and the submittal of redacted bids.
3. On January 10, 2007, NRG indicated in response that it would produce a redacted version of its proposal, but did not address my claim to confidential information or rule 11(e).
4. On January 12, 2007, Bluewater wind responded in an email entitled “RE: Docket 06-241 Bid Information.” Bluewater indicated it would provide a redacted electronic copy of its bid. It stated that “Bluewater Wind appreciates the PSC’s consideration of whether to post these revised copies of the bid submissions on the PSC website and we will support whatever decision the PSC reaches.” Like NRG, Bluewater did not address my request to confidential information or rule 11(e) in its filing, although it subsequently indicated to me an intent to consider such a request.
5. On January 12, 2007, Conectiv responded to my request. Unlike NRG and Bluewater, Conectiv responded to my request, albeit negatively and inconsistently.
6. On one hand, Conectiv claims that confidential and proprietary material is not subject to public inspection “under any circumstances.” On the other hand, it

claims such material is subject to inspection under rule 11(e) but only in a “contested case” because of due process considerations.

7. Conectiv, while acknowledging that 06-241 is an “open proceeding,” claims its proposal “was not filed in Docket 06-241.”
8. Conectiv’s assertions are wrong factually and legally.
9. At the October 17 hearing, the Commission stated that it adopted the IC’s report for all items it had not voted on. The Commission did not vote on the post-RFP adoption process schedule.
10. On October 31, the Commission entered order 7066, and appended the Independent Consultant’s (IC’s) report to that order.
11. Order 7066 states that the Commission “will exercise jurisdiction over any dispute arising from the RFP process...”
12. Order 7066 states that the IC’s report is adopted and approved by the Commission.
13. The IC’s report provides set for the following schedule.
 - December 22, 2006—Proposals due
 - February 9, 2007—State Agencies’ evaluation of proposals filed
 - February 21, 2007—Written public comments filed
 - February 23, 2007—Final Stage Agencies’ evaluation filed
 - February 27, 2007—Commission meeting to consider bid evaluations
14. The filing of the bids is part of Docket 06-241.
15. To the extent Conectiv made a filing that was not pursuant to 06-241, its bid should not be considered further by Delmarva Power & Light and the four state agencies.
16. PSC Rule 10 governs access to “public records” as that term is understood in the Delaware Freedom of Information Act.
17. PSC Rule 11(e) governs access to confidential information. It provides that:

(e) The Commission, Commission Staff, and the Division of Public Advocate shall have access to all documents for which confidential treatment has been claimed. Access to non-public information shall be made available to all other parties, including consultants retained by the Commission, Commission Staff, and the Division of Public Advocate,

upon the execution of an appropriate agreement by the parties or entry of a protective order by the Commission or designated Presiding Officer or Hearing Examiner (emphasis added).

18. The PSC Rules should be liberally construed.
19. I am a party to 06-241, which is a proceeding within the meaning of PSC Rule 2.
20. I am entitled to all documents for which confidential treatment has been claimed just as if I was a member of the Commission, Commission Staff or the Division of Public Advocate, the only difference being that I, unlike the aforementioned state entities, am required to either execute an appropriate agreement to ensure the confidentiality of the materials, or absent that, to obtain the documents pursuant to entry of a protective order.
21. I am prepared to enter into separate appropriate agreements with each bidder.
22. No bidder has attempted to negotiate an appropriate agreement or to otherwise limit the scope of my request.
23. To the extent an appropriate agreement cannot be reached with each and every bidder, I request the Commission to enter a protective order.
24. In his January 8, 2007 correspondence, Mr. Howatt indicated that should there be any follow-up necessary the Commission will likely discuss them at its normally scheduled meeting on January 23.
25. On January 10, 2007, I informed Mr. Howatt that I would be out-of-state on January 23 and respectfully requested that it be heard before the Commission on another day.

Now therefore, I respectfully request that this Honorable Commission.

1. Set for hearing on a day different than January 23, 2007, this Motion for Protective Order.
2. Enter a protective order that allows me access to confidential information submitted by bidders in the above-entitled matter.

3. Grant such other relief as is appropriate and justice.

Respectfully submitted,

A handwritten signature in black ink, reading "Jeremy Firestone". The signature is written in a cursive style with a large, stylized "J" and "F".

Jeremy Firestone